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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,996	02/20/2002	Thomas Huber	INTE.25USU1 (ITC38)	9681
43997 7590 01/22/2007 OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			EXAMINER BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/080,996	Applicant(s) HUBER ET AL.	
	Examiner Scott Beliveau	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/7/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60,270,419, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Claims 1 and 3 respectively require that the 'said broadcaster receiv[es] requests from at least one of said viewers for at least one version [or at least two versions] of said program' whereupon the broadcaster makes a decision as to what to transmit based upon the viewer requests. The earlier filing is silent with respect to the broadcaster making decisions as to what versions of programs to supply based upon subscriber requests. Accordingly, the application shall be examined based upon its filing date of 20 February 2002.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 07 November 2006 was filed after the mailing date of the Non-Final Rejection on 08 August 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. The drawings were received on 07 November 2006. These drawings are approved.

Response to Arguments

4. Applicant's arguments filed 07 November 2006 have been fully considered but they are not persuasive.

Applicant argues that the Matthews, III fails to teach or suggest the step of "broadcasting information from said broadcaster to said viewers indicating that said plurality of versions of said program are available to said viewers". The examiner respectfully disagrees.

As previously noted in the grounds of rejection, the system provides for multiple versions of a program associated with different viewing angles. The claims are not limited with respect to what is meant by the 'information' being broadcast to indicate the availability of the plurality of versions. The cited passages describe that the viewer can change camera angles. Information is broadcast from the broadcaster indicating the availability of a plurality of versions as a result of the viewer receiving information corresponding to the particular angle for viewing (Col 4, Lines 58-62). Simply put, if a viewer is watching a program being

broadcast from a different camera angle then 'information' has been broadcast informing the viewer as to the existence of that particular 'version' of the programming. If the viewer presses 'up' and nothing happens is similarly informed that that particular version does not exist.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Matthews, III (US Pat No. 5,600,368).

In consideration of claim 1, the Matthews, III reference discloses a "method of broadcasting of a program containing a plurality of versions from a broadcaster to viewers" (Figure 7). The method comprises "broadcasting information from said broadcaster" [120] "to said viewers that said plurality of versions of said program are available to said viewers" in conjunction with the ability to view a particular program from various camera angles (Col 6, Lines 30-56). The "broadcaster" [120] "receives one or more requests from at least one of said viewers for at least one version of said plurality of versions of said program . . . mak[es] a decision to broadcast said at least one version of said plurality of versions of said program based upon said one or more requests; and . . . broadcast[s] said at least one version of said plurality of versions of said program to said at least one of said viewers" in accordance with

their request to view a particular viewpoint of the broadcast program (Figures 7-8; Col 7, Lines 33-54).

Claim 2 is rejected wherein the method further comprises “said at least one of said viewers transmitting to said broadcaster a request for said at least one version of said plurality of versions of said program” (Col 7, Lines 10-15).

In consideration of claim 3, the Matthews, III reference discloses a “method of broadcasting of a program containing a plurality of versions from a broadcaster to viewers” (Figure 7). The method comprises “broadcasting information from said broadcaster” [120] “to said viewers that said plurality of versions of said program are available to said viewers” in conjunction with the ability to view a particular program from various camera angles (Col 6, Lines 30-56). The “broadcaster” [120] “receives requests from a plurality said viewers” (Col 6, Lines 66-67) “for at least two version of said plurality of versions of said program” associated with the plurality of available camera angles, “mak[es] a decision to broadcast said at least two versions of said plurality of versions of said program based upon said requests; and . . . broadcast[s] said at least two versions of said plurality of versions of said program to said viewers” in accordance with their requests to view a particular viewpoint with particular display options for the broadcast program (Figures 7-8; Col 7, Lines 33-54).

Claim 4 is rejected wherein the “viewers receiv[e] a broadcast comprising said at least two versions of said program” corresponding to the different requested camera angles and various display options, “select one version from said at least two versions of said plurality of versions of said program using viewer preference information” associated with the users

desire/request to use a particular viewpoint” and “displaying said one version” in accordance with the user requests (Col 6, Line 23 – Col 7, Line 54).

Claim 5 is rejected wherein the “viewer preference information is stored in a receiving unit” [24] for eventual transmission to the broadcaster [120] (Col 7, Lines 10-15).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III (US Pat No. 5,600,368) in view of Butler et al. (US Pub No. 2002/0007493 A1).

In consideration of claims 6 and 7, the Matthews, III reference is silent with respect to how it necessarily “obtains content information” in association with the provision of viewing options (Col 6, Lines 30-43). In an analogous art pertaining to the field of broadcast video programming, the Butler et al. (US Pub No. 2002/0007493 A1) reference discloses a method for “obtaining content information contained” in either “a blanking interval of said program” or “a packet of digital information comprising said program” (Figure 5; Para. [0015] – [0016] and [0054] – [0058]). Accordingly, it would have been obvious to one having ordinary skill in the art to modify Matthews, III so as to “obtain content information contained” in either “a blanking interval of said program” or “a packet of digital information comprising said program” for the purpose of utilizing an improved means for providing ancillary data along

with video broadcasts along with a scheme for overlaying the contents on the primary video display in an interactive television system (Butler et al.: Para. [0008]).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Weatherford (US Pat No. 7,039,940) reference discloses a system and method for allowing viewers to watch different versions of programs based upon different subscription tiers.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Beliveau
Primary Examiner
Art Unit 2623



SEB

November 25, 2006